

§ 582.11 Director's authority.

(a) In the exercise of jurisdiction under § 582.10, the Director is authorized and directed to act upon the requests, applications, and notices submitted under the regulations in this part; to issue either written or oral orders to govern lease operations; and to require compliance with applicable laws, regulations, and lease terms so that all operations conform to sound conservation practices and are conducted in a manner which is consistent with the following:

(1) Make such OCS minerals available to meet the nation's needs in a timely manner;

(2) Balance OCS mineral resource development with protection of the human, marine, and coastal environments;

(3) Ensure the public a fair and equitable return on OCS minerals leased on the OCS; and

(4) Foster and encourage private enterprise.

(b)(1) The Director is to be provided ready access to all OCS mineral resource data and all environmental data acquired by the lessee or holder of a right of use and easement in the course of operations on a lease or right of use and easement and may require a lessee or holder to obtain additional environmental data when deemed necessary to assure adequate protection of the human, marine, and coastal environments.

(2) The Director is to be provided an opportunity to inspect, cut, and remove representative portions of all samples acquired by a lessee in the course of operations on the lease.

(c) In addition to the rights and privileges granted to a lessee under any lease issued or maintained under the Act, on request, the Director may grant a lessee, subject to such conditions as the Director may prescribe, a right of use and easement to construct and maintain platforms, artificial islands, and/or other installations and devices which are permanently or temporarily attached to the seabed and which are needed for the conduct of leasehold exploration, testing, development, production, and processing activities or other leasehold related operations whether on or off the lease.

(d)(1) The Director may approve the consolidation of two or more OCS mineral leases or portions of two or more OCS mineral leases into a single mining unit requested by lessees, or the Director may require such consolidation when the operation of those leases or portions of leases as a single mining unit is in the interest of conservation of the natural resources of the OCS or the prevention of waste. A mining unit may also include all or portions of one or more OCS mineral leases with all or portions of one or more adjacent State leases for minerals in a common orebody. A single unit operator shall be responsible for submission of required Delineation, Testing, and Mining Plans covering OCS mineral operations for an approved mining unit.

(2) Operations such as exploration, testing, and mining activities conducted in accordance with an approved plan on any lease or portion of a lease which is subject to an approved mining unit shall be considered operations on each of the leases that is made subject to the approved mining unit.

(3) Minimum royalty paid pursuant to a Federal lease, which is subject to an approved mining unit, is creditable against the production royalties allocated to that Federal lease during the lease year for which the minimum royalty is paid.

(4) Any OCS minerals produced from State and Federal leases which are subject to an approved mining unit shall be accounted for separately unless a method of allocating production between State and Federal leases has been approved by the Director and the appropriate State official.

§ 582.12 Director's responsibilities.

(a) The Director is responsible for the regulation of activities to assure that all operations conducted under a lease or right of use and easement are conducted in a manner that protects the environment and promotes orderly development of OCS mineral resources. Those activities are to be designed to prevent serious harm or damage to, or waste of, any natural resource (including OCS mineral deposits and oil, gas, and sulphur resources in areas leased or not leased), any life (including fish and other aquatic life), property, or the

marine, coastal, or human environment.

(b)(1) In the evaluation of a Delineation Plan, the Director shall consider whether the plan is consistent with:

- (i) The provisions of the lease;
- (ii) The provisions of the Act;
- (iii) The provisions of the regulations prescribed under the Act;
- (iv) Other applicable Federal law; and
- (v) Requirements for the protection of the environment, health, and safety.

(2) Within 30 days following the completion of an environmental assessment or other NEPA document prepared pursuant to the regulations implementing NEPA or within 30 days following the comment period provided in § 582.4(b) of this part, the Director shall:

(i) Approve any Delineation Plan which is consistent with the criteria in paragraph (b)(1) of this section;

(ii) Require the lessee to modify any Delineation Plan that is inconsistent with the criteria in paragraph (b)(1) of this section; or

(iii) Disapprove a Delineation Plan when it is determined that an activity proposed in the plan would probably cause serious harm or damage to life (including fish and other aquatic life); to property; to natural resources of the OCS including mineral deposits (in areas leased or not leased); or to the marine, coastal, or human environment, and the proposed activity cannot be modified to avoid the conditions.

(3) The Director shall notify the lessee in writing of the reasons for disapproving a Delineation Plan or for requiring modification of a plan and the conditions that must be met for plan approval.

(c)(1) In the evaluation of a Testing Plan, the Director shall consider whether the plan is consistent with:

- (i) The provisions of the lease;
- (ii) The provisions of the Act;
- (iii) The provisions of the regulations prescribed under the Act;
- (iv) Other applicable Federal law;
- (v) Environmental, safety, and health requirements; and
- (vi) The statutory requirement to protect property, natural resources of the OCS, including mineral deposits (in areas leased or not leased), and the National security or defense.

(2) Within 60 days following the release of a final EIS prepared pursuant to NEPA or within 60 days following the comment period provided in § 582.4(c) of this part, the Director shall:

(i) Approve any Testing Plan which is consistent with the criteria in paragraph (c)(1) of this section;

(ii) Require the lessee to modify any Testing Plan which is inconsistent with the criteria in paragraph (c)(1) of this section; or

(iii) Disapprove any Testing Plan when the Director determines the existence of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances and that (A) implementation of the activities described in the plan would probably cause serious harm and damage to life (including fish and other aquatic life), to property, to any mineral deposit (in areas leased or not leased), to the National security or defense, or to the marine, coastal, or human environments; (B) that the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and (C) the advantages of disapproving the Testing Plan outweigh the advantages of development and production of the OCS mineral resources.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a Testing Plan or for requiring modification of a Testing Plan and the conditions that must be met for approval of the plan.

(d)(1) In the evaluation of a Mining Plan, the Director shall consider whether the plan is consistent with:

- (i) The provisions of the lease;
- (ii) The provisions of the Act;
- (iii) The provisions of the regulations prescribed under the Act;
- (iv) Other applicable Federal law;
- (v) Environmental, safety, and health requirements; and
- (vi) The statutory requirements to protect property, natural resources of the OCS, including mineral deposits (in areas leased or not leased), and the National security or defense.

(2) Within 60 days following the release of a final EIS prepared pursuant

to NEPA or within 60 days following the comment period provided in § 582.4(d) of this part, the Director shall:

(i) Approve any Mining Plan which is consistent with the criteria in paragraph (d)(1) of this section;

(ii) Require the lessee to modify any Mining Plan which is inconsistent with the criteria in paragraph (d)(1) of this section; or

(iii) Disapprove any Mining Plan when the Director determines the existence of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, and that:

(A) Implementation of the activities described in the plan would probably cause serious harm and damage to life (including fish and other aquatic life), to property, to any mineral deposit (in areas leased or not leased), to the National security or defense, or to the marine, coastal, or human environments;

(B) That the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(C) The advantages of disapproving the Mining Plan outweigh the advantages of development and production of the OCS mineral resources.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a Mining Plan or for requiring modification of a Mining Plan and the conditions that must be met for approval of the plan.

(e)-(f) [Reserved]

(g) The Director shall establish practices and procedures to govern the collection of all rents, royalties, and other payments due the Federal Government in accordance with terms of the leasing notice, the lease, and the applicable Royalty Management regulations listed in § 581.26(i) of this chapter.

(h) [Reserved]

§ 582.13 [Reserved]

§ 582.14 Noncompliance, remedies, and penalties.

(a)(1) If the Director determines that a lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable reg-

ulations; the lease; the approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and the Director determines that such noncompliance poses a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall order the lessee to take immediate and appropriate remedial action to alleviate the threat. Any oral orders shall be followed up by service of a notice of noncompliance upon the lessee by delivery in person to the lessee or agent, or by certified or registered mail addressed to the lessee at the last known address.

(2) If the Director determines that the lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and such noncompliance does not pose a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall serve a notice of noncompliance upon the lessee by delivery in person to the lessee or agent or by certified or registered mail addressed to the lessee at the last known address.

(b) A notice of noncompliance shall specify in what respect(s) the lessee has failed to comply with the provisions of applicable law; regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and shall specify the action(s) which must be taken to correct the noncompliance and the time limits within which such action must be taken.

(c) Failure of a lessee to take the actions specified in the notice of noncompliance within the time limit specified shall be grounds for a suspension of operations and other appropriate actions, including but not limited to the assessment of a civil penalty of up to \$10,000 per day for each violation that is not corrected within the time period specified (43 U.S.C. 1350(b)).